

**From:** Kirby Dunsmore  
**To:** Renata Hesse  
**Date:** 11/30/01 10:58pm  
**Subject:** Comment on U.S. v. Microsoft

Kerwin Dunsmore  
9250 Myrna Place  
Thornton, CO 80229  
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Renata Hesse, Trial Attorney,  
Suite 1200, Antitrust Division,  
Department of Justice  
601 D Street NW  
Washington, DC 20530

Subject:  
A comment on United States v. Microsoft Corporation;  
Revised Proposed Final Judgment and Competitive Impact Statement

Dear Ms. Hesse:

I am a recently-retired (2001) computer professional and submit these comments in the hope that the Court will find them useful.

Section III., Prohibited Conduct, (subsection J), permits (and perhaps even encourages) Microsoft to deny disclosure of or licenses to its Applications Programming Interfaces in various circumstances. Subsection J) allows Microsoft to duck behind "security" considerations or to comply with a hypothetical "governmental agency of competent jurisdiction." At the same time it encourages Microsoft to approve only potential licensees with an "authentic and viable" business and a "reasonable business need".

Just as an automobile is a useless platform without a driver, an operating system is useless without an application. Concealment of an operating system's APIs is the equivalent of hiding a car's windshield wiper or light switches from its owner or driver, limiting its use to daytime and dry weather.

Revealing the locations of these controls (and how to use them) is not the same as providing detailed information on the design or workings of the internal mechanisms which provide the needed function. The security issues raised by publishing API specifications are specious because authentication of identity is simply a service expected of an operating system, not unlike a car's key-locked ignition switch.

Furthermore, just as a car buyer would not buy an additional license to use information to operate its heater, Microsoft operating system consumers must not be forced to buy (directly or indirectly) additional information about Windows XX just to use it with programs developed by third parties.

In sum, Section III (J) invites Microsoft to invoke security or intellectual property issues to justify withholding information useful to purchasers and applications programmers of its operating systems.

Given the history of Microsoft's behavior in relation to the U.S. Government's attempts to restrain it, the Court will again be called upon to examine that behavior. Since May of 1990, when the FTC opened its anti-trust investigation, Microsoft has paid little attention to its government's admonishments or to orders of the Court. Indeed, Microsoft has never admitted any wrongdoing, nor has it in the present action.

Respectfully,  
Kerwin Dunsmore